

## PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PU284-SE	<b>FOR FURTHER ACTION</b> See Form PCT/IPEA/416	
International application No. PCT/SE 2003/001435	International filing date (day/month/year) 12.09.2003	Priority date (day/month/year) 31.10.2002
International Patent Classification (IPC) or national classification and IPC C07K 16/18, G06T 17/00, G01N 33/563	DATE RECEIVED DATE OF PUBLICATION DATE OF REFUSAL	RP ✓ JH v G AK
Applicant Amersham Biosciences AB et al	CASE NO. CASE NO.	PU0284-PCT

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 9 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
  - ☐ (sent to the applicant and to the International Bureau) a total of \_\_\_\_\_ sheets, as follows:
    - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
    - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
  - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) \_\_\_\_\_, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

- This report contains indications relating to the following items:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Box No. I    | Basis of the report   |
| <input type="checkbox"/> Box No. II              | Priority  |
| <input checked="" type="checkbox"/> Box No. III  | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability  |
| <input type="checkbox"/> Box No. IV              | Lack of unity of invention  |
| <input checked="" type="checkbox"/> Box No. V    | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> Box No. VI              | Certain documents cited   |
| <input type="checkbox"/> Box No. VII             | Certain defects in the international application  |
| <input checked="" type="checkbox"/> Box No. VIII | Certain observations on the international application   |

Date of submission of the demand  17.05.2004	Date of completion of this report  18.01.2005
Name and mailing address of the IPEA/SE Patent- och registreringsverket Box 5055 S-102 42 STOCKHOLM Facsimile No. +46 8 667 72 88	Authorized officer  Ida Christensen/BS Telephone No. +46 8 782 25 00

Form PCT/IPEA/409 (cover sheet) (January 2004)

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

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## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This report is based on a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of:
    - ☐ international search (under Rules 12.3 and 23.1(b))
    - ☐ publication of the international application (under Rule 12.4)
    - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
  - ☒ the international application as originally filed/furnished
  - ☐ the description:
    - pages \_\_\_\_\_ as originally filed/furnished
    - pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
    - pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
  - ☐ the claims:
    - pages \_\_\_\_\_ as originally filed/furnished
    - pages\* \_\_\_\_\_ as amended (together with any statement) under Article 19
    - pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
    - pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
  - ☐ the drawings:
    - pages \_\_\_\_\_ as originally filed/furnished
    - pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
    - pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
  - ☒ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
  - ☐ the description, pages \_\_\_\_\_
  - ☐ the claims, Nos. \_\_\_\_\_
  - ☐ the drawings, sheets/figs \_\_\_\_\_
  - ☐ the sequence listing *(specify)*: \_\_\_\_\_
  - ☐ any table(s) related to the sequence listing *(specify)*: \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
  - ☐ the description, pages \_\_\_\_\_
  - ☐ the claims, Nos. \_\_\_\_\_
  - ☐ the drawings, sheets/figs \_\_\_\_\_
  - ☐ the sequence listing *(specify)*: \_\_\_\_\_
  - ☐ any table(s) related to the sequence listing *(specify)*: \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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## Supplemental Box Relating to Sequence Listing

### Continuation of Box No. 1, item 2:

1. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this report was established on the basis of:
  - a. type of material
    - ☒ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material
    - ☐ in written format
    - ☒ in computer readable form
  - c. time of filing/furnishing
    - ☐ contained in the international application as filed
    - ☒ filed together with the international application in computer readable form
    - ☐ furnished subsequently to this Authority for the purposes of search and/or examination
    - ☐ received by this Authority as an amendment\* on \_\_\_\_\_
2. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
3. Additional comments:

\* If item 4 in Box No. 1 applies, the listing and/or table(s) related thereto, which form part of the basis of the report, may be marked "superseded."

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**Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application
- ☒ claims Nos. 1-3 (partially), 25

because:

- ☒ the said international application, or the said claims Nos. 25  
relate to the following subject matter which does not require an international preliminary examination (*specify*):

Claim 25 relates to a machine readable data storage medium, which is considered to be a mere presentation of information (PCT Rule 67.1(v)).

- ☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-3 (part.)  
are so unclear that no meaningful opinion could be formed (*specify*):

Present claims 1-3 relate to a compound containing a binding pocket. The compound is not considered to be sufficiently defined. It is even uncertain whether the binding pocket is sufficiently defined by the structure coordinates in order to be reproducibly generated (see also box VIII).  
Claims 1-3 relate to an extremely large number of possible compounds.

.../...

- ☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported by the description that no meaningful opinion could be formed.
- ☒ no international search report has been established for said claims Nos. 1-3 (partially), 25
- ☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
- |                            |  |
|----------------------------|--|
| the written form           | <input type="checkbox"/> has not been furnished            |
|                            | <input type="checkbox"/> does not comply with the standard |
| the computer readable form | <input type="checkbox"/> has not been furnished            |
|                            | <input type="checkbox"/> does not comply with the standard |
- ☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in the Annex C-bis of the Administrative Instructions.
- ☐ See Supplemental Box for further details.

**Supplemental Box**

In case the space in any of the preceding boxes is not sufficient.  
Continuation of: Box III.2

Support within the meaning of Article 6 PCT and disclosure within the meaning of Article 5 PCT is to be found, however, for only a very small proportion of the compounds claimed. In the present case, the claims so lack support, and the application so lacks disclosure, that a meaningful examination over the whole of the claimed scope is impossible. Consequently, the examination has been carried out for those parts of the claims which appear to be supported and disclosed, namely those parts related to a compound consisting of the IgG kappa constant region (either the light chain alone or in combination with the heavy chain).

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**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	<u>4-24</u>	YES
	Claims	<u>1-3</u>	NO
Inventive step (IS)	Claims		YES
	Claims	<u>1-24</u>	NO
Industrial applicability (IA)	Claims	<u>1-24</u>	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

Reference will be made to the following documents cited in the International Search Report:

D1) The Journal of Biological Chemistry, 271(21):12191-12198 (1996), Chacko S & Padlan E A.

D2) Pathology International, 51(4):264-270 (2001), Hoshii Y et al.

D3) Journal of Immunological Methods, 71: 9-16 (1984), Bazin H et al.

D1 discloses the 3D-structure of the Fab fragment from TR1.9, which is a human IgG1-kappa autoantibody (see the abstract).

D2 describes synthetic peptides corresponding to positions 116-133 of a human Ig-kappa light chain constant region and polyclonal antibodies against said peptides for the detection of disease (the abstract).

D3 relates to the purification of rat monoclonal antibodies by use of the fact that a major immunoglobulin allotype in the rat species is located on the constant part of the kappa light chain. D3 is considered to represent the general state of the art.

The present application relates to the identification of a novel binding site, which is located in a strictly conserved region located between a light chain and a heavy chain of a human IgG kappa antibody. The aim is to identify compounds which are capable of binding specifically to said binding site and thereby may be used as affinity ligands in affinity chromatography for the purification of IgGs.

.../...

## Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

The subject-matter of claims 1-3 is not restricted to the newly identified binding site. Instead, claims 1-3 also relate to previously known compounds, such as the Fab fragment disclosed in D1, and therefore the subject-matter of claims 1-3 lacks novelty.

The polypeptide according to claims 4-8, the complex according to claims 9-11 and the computer according to claims 23-24 are novel.

However, it is previously known to isolate the constant region from an IgG-kappa Fab fragment and D2 describes peptides corresponding to parts of the constant region. It is therefore considered obvious to a person skilled in the art to isolate a polypeptide according to claims 4-8. The structure coordinates which are described in claims 7-8 do not lead to a different product.

The isolated and purified polypeptide according to claims 4-8 (consisting of a limited portion of a human IgG light and/or heavy chain) has not been produced and used in the present application. Instead, an entire IgG-kappa Fab fragment has been used in the experiments for identifying ligands. But even if such a polypeptide were to be produced, it would not be considered to involve an inventive step.

The complex according to claims 9-11 and the computer according to claims 23-24 are not considered to confer any further inventive features *per se*.

Therefore, it is considered that an inventive step is lacking for the subject-matter of claims 4-11 and 23-24.

The method of claims 12-18 and the use according to claims 19-22 are novel.

If a polypeptide consisting of a portion of the light chain only, or a portion of the heavy chain only, would be used, it is doubted that the method or the use would function according to the inventive thought.

Consequently, with the present reference to claims 4-5, it is not considered that an inventive step has been shown for the subject-matter of claims 12-22.

.../...

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**Supplemental Box**

In case the space in any of the preceding boxes is not sufficient.

Continuation of: BOX V

It is considered that the method and the use would function if (parts of) the constant regions of the light and of the heavy chain are used together. The region containing the relevant binding pocket should be clearly described in the claims, in order to exclude the two clefts which were also identified by the present inventors but not further investigated, or other possible binding pockets yet to be identified in the constant region.

The subject-matter of claims 1-24 is considered to fulfil the requirement of industrial applicability.



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**Box No. VIII Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

Claims 1-3 relate to a compound containing a binding pocket. The compound is not considered to be sufficiently defined. It is even uncertain whether the binding pocket is sufficiently defined by the structure coordinates in order to be reproducibly generated (see also box III).